

REMARKS/ARGUMENTS

The Office has required restriction in the present invention under 35 U.S.C. 121 and 372 as follows:

Group I: Claims 1-11, 21-23, 27-29, and 33, drawn to a process for preparing a plastic; and

Group II: Claims 12-20, 24-26, 30-32, and 34, drawn to a process for preparing a mixture of compounds.

Applicants elect, with traverse, Group I, Claims 1-11, 21-23, 27-29, 33, drawn to a process for preparing a plastic.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples, have been provided to support a conclusion of patentable distinctness between the identified groups or shown that a burden exists in searching all of the claims.

The Examiner contends that the invention of Group II is considered to be at least obvious over the French patent 2 771 411 of record which teaches preparing dithioesters by reacting methacrylic anhydride with a dimercaptan which are within the scope of instant compounds III and IV; and accordingly, the recited mixtures of compounds do not make a contribution over the prior art within the special technical features requirement of PCT Rule 13.2.

Applicants traverse because Group II's claims require conditions and reaction amounts of formula III not found in the French patent. Therefore, the recited mixtures of compounds do make a contribution over the prior art and hence, the restriction is proper.

Moreover, the M.P.E.P. in §803 states as follows:

“If the search and examination of the entire application can be made without a serious burden, the Examiner *must* (emphasis added) examine it on the merits, even though it includes claims to distinct and independent inventions.”

Applicants respectfully submit that a search of all the claims involve no additional search burden on the Office, since all of these claims of Groups I and II have been examined by the Office during the prosecution of the present application.

Applicants elect the species of claim 1, formula II for purposes of examination. Claims 1-11, 21-23, 27-29 and 33 read on the elected species. Applicants make no statement regarding the patentable distinctness of the species, but note that for the restriction to be proper, there must be a patentable difference between the species claimed (M.P.E.P. §808.01(a).

Finally, with respect to the elected species, Applicants respectfully submit that should the elected species be found allowable, the Office expand its search to the nonelected species.

Accordingly and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

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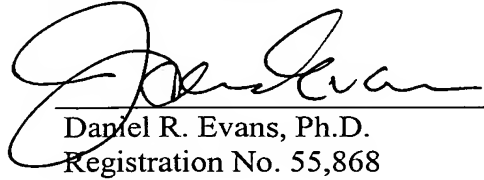
Applicants submit that the above-identified application is now in condition for further examination on the merits and early notice of such action is earnestly solicited.

Respectfully submitted,

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